

To: CN=Don Waye/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Lynda Hall/OU=DC/O=USEPA/C=US@EPA;CN=Mark
 Dyner/OU=DC/O=USEPA/C=US@EPA[]; N=Mark Dyner/OU=DC/O=USEPA/C=US@EPA[]
Bcc: []
From: CN=Stephen Sweeney/OU=DC/O=USEPA/C=US
Sent: Wed 8/29/2012 4:24:21 PM
Subject: Re: Fw: OR CZARA - Pesticides & Forestry: EPA's Implementation of BiOp
 CZARA Letter to Federal Agencies re pesticide petition.pdf
[Table of Contents FINAL.pdf](#)
[Pesticide Petition FINAL.pdf](#)
<http://www.epa.gov/pesticides/ppdc/2009/october/session-2.pdf>
 (embedded image)
 (embedded image)
 (embedded image)

Don,

The attorney here who would have the best information about that litigation is Mark Dyner at 564-1754.

Thanks,

Steve

Stephen J. Sweeney
 sweeney.stephen@epa.gov
 202-564-5491
 202-564-5477 (fax)

From: Don Waye/DC/USEPA/US
To: Stephen Sweeney/DC/USEPA/US@EPA
Cc: Lynda Hall/DC/USEPA/US@EPA
Date: 08/28/2012 05:40 PM
Subject: Fw: OR CZARA - Pesticides & Forestry: EPA's Implementation of BiOp

Steven,

Nina Bell continues her push to use CZARA as a lever to help achieve a larger objective than covered by the CZARA settlement. The latest is her move to petition Oregon for a sweeping pesticides rule. The tie-in with CZARA (at least as I understand it) is summarized in my email below to Region 10 and NOAA program staff.

I am wondering if you can direct me to an OGC contact who I can chat with about EPA's plans for implementing "Reasonable and Prudent Alternatives" (RPAs) to protect endangered species (including Oregon's salmon species) that may be at risk from aerial spraying of pesticides, particularly over headwater (Type N) streams. Nina's petition refers to "Northwest Center for Alternatives to Pesticides, et al. v. EPA, CV-01919-TSZ, (W.D. Wash.) Complaint for Declaratory and Injunctive R".

I am attaching Nina's new petition to Oregon for a pesticide rule and a letter she sent last week that focuses on CZARA. I was not on the original distribution list, but I have a copy now (without appendices). I am not asking you for an analysis of her petition or for you to take on any additional work beyond just directing me to a knowledgeable contact on the pesticides litigation over ESA consultation and implementation of RPAs specified in NMFS BiOps.

Thanks.

Don

----- Forwarded by Don Waye/DC/USEPA/US on 08/28/2012 05:22 PM -----

From: Don Waye/DC/USEPA/US
To: David Powers/R10/USEPA/US@EPA, Allison.Castellan@noaa.gov, Jayne Carlin/R10/USEPA/US@EPA
Date: 08/28/2012 04:59 PM
Subject: OR CZARA - Pesticides & Forestry: EPA's Implementation of BiOp

All,

I am still trying to track down a good HQ contact who knows about the issues raised by NWEA. The central concern with regard to CZARA seems to be that EPA and NOAA are relying on a 2004 injunction that NWEA claims is increasingly moot with each new Biological Opinion (BiOp) that NMFS issues, starting with the first BiOp issued in 2008 and concluding with the final BiOp scheduled to be issued by June 30, 2013. This is because while each new BiOp released by NMFS includes Reasonable and Prudent Alternatives (RPAs) to protect endangered species (including Oregon's salmon species) that may be at risk from these pesticides, such as prohibitions from aerial and ground spraying over or adjacent to headwater (Type N) streams, to date, EPA has not implemented any of these RPAs.

Using Google, I have concluded that the 2 folks who were EPA's top authorities on implementing these RPAs have recently retired from the Agency. I have left messages with a couple of contacts within our Pesticides Office to track down replacement leads. Importantly, I found a PowerPoint presentation from 2009 that discusses EPA's plans for implementing the RPAs in the NMFS BiOps. Please see Slide 5 in this PPT to see what EPA's plan was in 2009:
<http://www.epa.gov/pesticides/ppdc/2009/october/session-2.pdf>

Ex. 5 - Deliberative

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